



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**Docket No. NHTSA-2012-0013**

**Wheego Electric Cars, Inc.**

### **Receipt of Petition for Temporary Exemption from the Electronic Stability Control Requirements of FMVSS No. 126**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of receipt of a petition for temporary exemption from Federal Motor Vehicle Safety Standard (FMVSS) No. 126, Electronic Stability Control Systems.

**SUMMARY:** In accordance with the procedures in 49 CFR Part 555, Wheego Electric Cars, Inc., has petitioned the agency for a temporary exemption from the electronic stability control requirements of FMVSS No. 126. The basis for the application is that the petitioner avers that the exemption would make the development or field evaluation of a low-emission vehicle easier and would not unreasonably lower the safety level of that vehicle.<sup>1</sup> This notice of receipt of an application for a temporary exemption is published in accordance with statutory and administrative provisions. NHTSA has made no judgment on the merits of the application.

**DATES:** You should submit your comments not later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** David Jasinski, Office of the Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 1200 New Jersey

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<sup>1</sup> To view the application and its supplement, go to <http://www.regulations.gov> and enter the docket number set forth in the heading of this document.

Avenue, SE, West Building 4<sup>th</sup> Floor, Room W41-213, Washington, DC 20590.

Telephone: (202) 366-2992; Fax: (202) 366-3820.

**ADDRESSES:** We invite you to submit comments on the application described above.

You may submit comments identified by docket number at the heading of this notice by any of the following methods:

- Web Site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the electronic docket site by clicking on “Help and Information” or “Help/Info.”
- Fax: 1-202-493-2251.
- Mail: U.S. Department of Transportation, Docket Operations, M-30, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 am and 5 pm, Monday through Friday, except Federal Holidays. Telephone: (202) 366-9826.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.dot.gov/privacy.html>.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under FOR FURTHER INFORMATION CONTACT. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR Part 512).

## **SUPPLEMENTARY INFORMATION:**

### **I. Statutory Basis for Temporary Exemptions**

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified as 49 U.S.C. Chapter 301, authorizes the Secretary of Transportation to exempt, on a temporary

basis and under specified circumstances, motor vehicles from a motor vehicle safety standard or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority in this section to NHTSA.

NHTSA established 49 CFR Part 555, Temporary Exemption from Motor Vehicle Safety and Bumper Standards, to implement the statutory provisions concerning temporary exemptions. A vehicle manufacturer wishing to obtain an exemption from a standard must demonstrate in its application (A) that an exemption would be in the public interest and consistent with the Safety Act and (B) that the manufacturer satisfies one of the following four bases for an exemption: (i) compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith; (ii) the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard; (iii) the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of that vehicle; or (iv) compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.

For an exemption petition to be granted on the basis that the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of the vehicle, the petition must include specified information set forth at 49 CFR 555.6(c). The main requirements of that section include: (1) Substantiation that the vehicle is a low-emission vehicle; (2) documentation establishing that a temporary exemption would not unreasonably degrade

the safety of a vehicle; (3) substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle; (4) a statement of whether the petitioner intends to conform to the standard at the end of the exemption period; and (5) a statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted.

## **II. Electronic Stability Control Systems Requirement**

In April 2007, NHTSA published a final rule requiring that vehicles with a gross vehicle weight rating of 4,536 kilograms (kg) (10,000 pounds) or less be equipped with electronic stability control (ESC) systems. ESC systems use automatic computer-controlled braking of individual wheels to assist the driver in maintaining control in critical driving situations in which the vehicle is beginning to lose directional stability at the rear wheels (spin out) or directional control at the front wheels (plow out). An anti-lock brake system (ABS) is a prerequisite for an ESC system because ESC uses many of the same components as ABS. Thus, the cost of complying with FMVSS No. 126 is less for vehicle models already equipped with ABS.

Preventing single-vehicle loss-of-control crashes is the most effective way to reduce deaths resulting from rollover crashes. This is because most loss-of-control crashes culminate in the vehicle leaving the roadway, which dramatically increases the probability of a rollover. NHTSA's crash data study of existing vehicles equipped with ESC demonstrated that these systems reduce fatal single-vehicle crashes of passenger cars by 55 percent and fatal single-vehicle crashes of light trucks and vans (LTVs) by 50 percent.<sup>2</sup> NHTSA estimates that ESC has the potential to prevent 56 percent of the fatal

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<sup>2</sup> Sivinski, R., Crash Prevention Effectiveness of Light-Vehicle Electronic Stability Control: An Update of the 2007 NHTSA Evaluation; DOT HS 811 486 (June 2011).

passenger car rollovers and 74 percent of the fatal LTV first-event rollovers that would otherwise occur in single-vehicle crashes.<sup>3</sup>

The ESC requirement became effective for substantially all vehicles on September 1, 2011.

### **III. Overview of Petition**

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR Part 555, Wheego Electric Cars, Inc. (Wheego) submitted a petition dated August 15, 2011 asking the agency for a temporary exemption from the electronic stability control requirements of FMVSS No. 126. Wheego submitted a supplement to its application by letter dated December 2, 2011. The basis for the application is that the exemption would make the development or field evaluation of a low-emission vehicle easier and would not unreasonably lower the safety level of that vehicle. Wheego has requested an exemption for the LiFe model until August 1, 2012.

Wheego is a Delaware corporation with its headquarters in Atlanta, Georgia. Wheego began manufacturing and selling low-speed electric vehicles in the U.S. in June 2009. In April 2011, Wheego began manufacturing its first all-electric passenger car, the two-door, two-seat LiFe model. Wheego also states that it is developing a four-door passenger vehicle for sale in late 2012.

In February 2011, Wheego was granted a temporary exemption from the advanced air bag requirements of FMVSS No. 208, Occupant Crash Protection, that is effective until February 11, 2013.<sup>4</sup> Wheego states that it plans to meet all other currently applicable FMVSSs for a passenger car.

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<sup>3</sup> *Id.*

<sup>4</sup> See 76 FR 7898 (Feb. 11, 2011); Docket No. NHTSA-2010-0118.

Wheego asserts that the company had intended to develop an ESC system for the LiFe. However, Wheego asserts that delays in funding and later developments made it impossible for Wheego to develop an ESC system for the LiFe before September 2011. Wheego requests an exemption from the ESC requirements until August 1, 2012 for up to 500 vehicles so that it can continue its development and evaluation of a low-emission vehicle.<sup>5</sup> Wheego states that the company intends to comply with FMVSS No. 126 at the end of the exemption period.

Wheego asserts that a temporary exemption would not unreasonably degrade the safety or impact protection of the vehicle. Wheego states that the LiFe has an ABS system that prevents loss of control by preventing the wheels from locking up and the tires from skidding during braking. Wheego also asserts that its standard tires are wide with wide, circumferential grooves that provide rapid water evacuation to aid wet traction. Wheego notes that the LiFe is limited to a top speed of 65 mph, which may contribute to a reduction of crashes associated with high speeds. Wheego also states that the LiFe has a low center of gravity with 762 pounds of batteries beneath the floorboard of the vehicle. Further, Wheego argues that the relatively limited range of the LiFe compared to gasoline-powered vehicles (100 miles before needing a charge) makes it less likely that a LiFe would be involved in a high-speed or rollover crash. Wheego also asserts that the relatively small number of vehicles that would be produced under the exemption suggests that the exemption would have a negligible effect on vehicle safety.

Wheego argues that an exemption would make the development or field evaluation of a low-emission vehicle easier. Wheego states that it would be able to use

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<sup>5</sup> Wheego initially requested an exemption for up to 1,000 vehicles, but later amended its petition to request no more than 500 exempted vehicles.

consumer feedback and other testing and evaluation to improve design and efficiency to improve charging, battery management, and safety systems in future vehicle models.

Wheego states that, without the exemption, the company would not be able to produce enough cars or revenue to sustain these developments or to launch a new vehicle model.

Wheego also believes that its success can add to the overall development of low-emission vehicles as a whole by demonstrating the viability of electric cars to consumers and encouraging other manufacturers to build electric cars.

Wheego also asserts that the granting of the exemption would be in the public interest. Wheego notes that NHTSA has traditionally found that the public interest is served by affording consumers a wider variety of motor vehicles, by encouraging the development of fuel-efficient and alternative-energy vehicles, and by providing additional employment opportunities. Wheego asserts that granting this petition serves each of those interests.

#### **IV. Completeness and Comment Period**

Upon receiving a petition, NHTSA conducts an initial review of the petition with respect to whether the petition is complete and whether the petitioner appears to be eligible to apply for the requested petition. The agency has tentatively concluded that the petition from Wheego is complete and that Wheego is eligible to apply for a temporary exemption. The agency has not made any judgment on the merits of the application, and is placing a non-confidential copy of the petition in the docket.

The agency seeks comment from the public on the merits of Wheego's application for a temporary exemption from FMVSS No. 126. We are providing a 30-day comment



period. After considering public comments and other available information, we will publish a notice of final action on the application in the **Federal Register**.

Issued on: January 24, 2012

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Christopher J. Bonanti  
Associate Administrator  
for Rulemaking

Billing Code 4910-59-P

[FR Doc. 2012-1960 Filed 01/27/2012 at 8:45 am; Publication Date: 01/30/2012]